

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

JULIE TAYMOR AND LOH, INC.,

Plaintiffs,

- against -

8 LEGGED PRODUCTIONS, LLC; HELLO
ENTERTAINMENT, LLC; GOODBYE
ENTERTAINMENT, LLC; SAVIOR
PRODUCTIONS, LLC; MICHAEL COHL;
JEREMIAH HARRIS; AND GLEN BERGER,

Defendants.

Case No. 11 Civ. 8002 (KBF)

ECF Case

**DECLARATION OF
JOSHUA L. SIMMONS, ESQ. IN
SUPPORT OF MOTION TO DISMISS
BY DEFENDANTS 8 LEGGED
PRODUCTIONS, LLC, GOODBYE
ENTERTAINMENT, LLC, SAVIOR
PRODUCTIONS, LLC, MICHAEL
COHL AND JEREMIAH HARRIS**

8 LEGGED PRODUCTIONS, LLC; GOODBYE
ENTERTAINMENT, LLC; SAVIOR
PRODUCTIONS, LLC; AND MICHAEL COHL;
JEREMIAH HARRIS,

Counterclaim-Plaintiffs,

- against -

JULIE TAYMOR AND LOH, INC.,

Counterclaim-Defendants.

GLEN BERGER,

Counterclaim-Plaintiff,

- against -

JULIE TAYMOR AND LOH, INC.,

Counterclaim-Defendant.

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I, Joshua L. Simmons, Esq., declare as follows:

1. I am an associate at the law firm of Kirkland & Ellis LLP, counsel of record for 8 Legged Productions, LLC, Goodbye Entertainment, LLC, Savior Productions, LLC, Michael Cohl and Jeremiah Harris (collectively, the “Defendants”). I am licensed in the State of New York and admitted to practice before this Court. I submit this declaration in support of the motion to dismiss by Defendants.

I. INTRODUCTION

2. I have reviewed Julie Taymor’s (“Taymor”) treatment titled “Spiderman/Caught,” which is dated July 1, 2004 and which was submitted to the United States Copyright Office in connection with Taymor’s copyright registration No. PAu 2-942-150 (“Treatment”). A true and accurate copy of the Treatment is attached hereto as **Exhibit 1**.

3. I have also reviewed the book of the musical titled *Spider-Man: Turn Off the Dark* currently playing on Broadway (“*Spider-Man* Musical” or “Musical”), which was written by Glen Berger and Roberto Aguirre-Sacasa (“New Book”), which is referenced and/or incorporated by reference into Plaintiffs’ Complaint. A true and accurate copy of the New Book is attached hereto as **Exhibit 2**.

4. In addition, I have reviewed the comic book *Amazing Fantasy #15* (1962), which is the first appearance of the Spider-Man character referenced in Plaintiffs’ Complaint and Treatment and contains the classic *Spider-Man* origin story’s setting and plot. A true and accurate copy of *Amazing Fantasy #15* is attached hereto as **Exhibit 3**.

5. I have also reviewed the 2002 film titled *Spider-Man* (“First *Spider-Man* Film”) and the 2004 film titled *Spider-Man 2* (“Second *Spider-Man* Film”), which are referenced and/or incorporated by reference into Plaintiffs’ Complaint. A true and accurate copy of a DVD

containing the First *Spider-Man* Film is attached hereto as **Exhibit 4**. A true and accurate copy of a DVD containing the Second *Spider-Man* Film is attached hereto as **Exhibit 5**.

6. Further, I have reviewed the following *Spider-Man* comic books related to the *Spider-Man* characters referenced in Plaintiffs' Complaint and the Treatment, as well as the classic *Spider-Man* story's setting and plot, that pre-dated the Treatment:

- *Amazing Spider-Man* #1–5 (1963);
- *Amazing Spider-Man* #9 (1964);
- *Amazing Spider-Man* #14–15 (1964);
- *Amazing Spider-Man Annual* #1 (1964);
- *Amazing Spider-Man* #17 (1964);
- *Amazing Spider-Man* #23 (1965)
- *Amazing Spider-Man* #25 (1965);
- *Amazing Spider-Man* #37–43 (1966);
- *Amazing Spider-Man* #50 (1967);
- *Amazing Spider-Man* #101 (1971);
- *Amazing Spider-Man* #121–22 (1973);
- *Vampire Tales* #3 (1973);
- *Marvel Spotlight* #32 (1977);
- *What If* #24 (1980);
- *Amazing Spider-Man* #42 (1987);
- *Amazing Spider-Man Annual* #21 (1987);
- *Amazing Spider-Man* #299;
- *Spectacular Spider-Man* #180 (1991);

- *Spider-Man Unlimited* #1 (1993);
- *Spectacular Spider-Man* #229 (1995);
- *Spider-Man Unlimited* #9 (1995);
- *Webspinners Tales of Spider-Man* #12 (1999);
- *Ultimate Spider-Man* #1 (2000);
- *Ultimate Spider-Man* #25 (2002); and
- *Amazing Spider-Man Vol. #487–89* (2002–03).

True and accurate copies of the covers and a representative sample of pages from the aforementioned comic books are attached hereto as indicated below.

II. THE PRE-EXISTING WORKS

A. The Spider-Man Comic Books

7. The Spider-Man character was first introduced in 1962 in Marvel Comics' *Amazing Fantasy* #15 created by Stan Lee and Steve Ditko. In that issue, readers meet Peter Parker, a timid, teenage bookworm and science prodigy who lives with his loving uncle and aunt, Ben and May Parker, and is regularly bullied by his schoolmates. Ex. 3 at 2–3. One day, while visiting a science laboratory, Peter is bitten by a radioactive spider that gives him super strength and agility, as well as other spider powers. *Id.* at 4–5. At first, Peter tests his powers in a wrestling contest by attempting to last three minutes in the ring with wrestler Crusher Hogan. *Id.* at 5–6. Peter does so with ease and wins a cash prize. *Id.* 6–7. He also creates a pair of mechanical web-shooters so that he can swing from building to building. *Id.* at 7. Later, Peter declines to stop a thief, only to learn that that same thief later shoots his Uncle Ben. *Id.* at 9–12. Realizing that he could have used his newfound powers to stop the thief, Peter blames himself for letting him get away. *Id.* at 12. Following this tragedy, Peter comes to the realization that,

“with great power there must also come—great responsibility!” *Id.* Thus, Peter, dressed as his alter-ego Spider-Man, uses his spidey powers to fight crime and protect the city. *Id.*



Id. at 2.



Id. at 5



Id. at 12.

8. Subsequent *Spider-Man* comic books have built on the *Spider-Man* story. For example, realizing that he can make money by selling photographs of his alter ego, Spider-Man, Peter takes a position at a newspaper called the *Daily Bugle* as a photographer, working for J. Jonah Jameson, the newspaper's editor-in-chief. Ex. 6 (*Amazing Spider-Man* #1), at 2–3 (1963); Ex. 7 (*Amazing Spider-Man* #2), at 2–5 (1963). Rather than seeing Spider-Man as a hero, however, Jameson portrays him as a “masked menace” in the paper's articles. Ex. 6, at 2–4.



Ex. 6 at 4.



Ex. 7 at 4.



Id. at 5.

9. The early *Spider-Man* comic books also introduce numerous villains that Spider-Man must face-off against, such as Electro, who uses the power of electricity to commit nefarious crimes. Ex. 8 (*Amazing Spider-Man* #9), at 1–2 (1964). Electro later teams up with other villains to battle Spider-Man as the “Sinister Six” (and sometimes seven). Ex. 9 (*Amazing Spider-Man Annual* #1), at 1–2 (1964); Ex. 10 (*Spider-Man Unlimited* #9), at 2 (1995).



Ex. 8 at 1.



Ex. 9 at 2



Ex. 10, at 2.

10. In *Amazing Spider-Man* # 14, published in 1964, Green Goblin is introduced as another one of Spider-Man’s foes. Ex. 11, at 1–2. Green Goblin is Spider-Man’s nemesis and a recurring villain throughout the *Spider-Man* comic books. *See id.* at 2; Ex. 12 (*Amazing Spider-Man* #17), at 1 (1964); Ex. 13 (*Amazing Spider-Man* #23), at 1 (1965); Ex. 14 (*Amazing Spider-Man* #39), at 1 (1966); Ex. 15 (*Amazing Spider-Man* #40), at 1 (1966). Starting with Green Goblin’s first appearance, he and Spider-Man have a series of airborne encounters—a common element in their battles. Ex. 11, at 4–5; Ex. 13, at 2–3. In later issues, Green Goblin uses his well-known glider. Ex. 12, at 2.



Ex. 11 at 1.



Ex. 12 at 2.



Id. at 3

11. The character of Norman Osborn is introduced as a wealthy businessman in *Amazing Spider-Man* #37, Ex. 16, at 2–3 (1966), and in *Amazing Spider-Man* #39, it is revealed that Norman Osborn and Green Goblin are one and the same. Ex. 14, at 2. Later, Green Goblin also reveals that he was created by an experiment Norman was running, which exploded causing brain damage. Ex. 15, at 2–4. Norman's wife, Emily, is introduced in *Spectacular Spider-Man* #180. Ex. 17, at 2 (1991).



Ex. 15 at 3.



Ex. 14 at 2.

12. Peter's initial love interest was Gwen Stacy, his blonde-haired, high school sweetheart. However, their relationship was doomed. After Green Goblin learns Peter Parker's secret identity, he kidnaps Gwen to punish Peter. Ex. 18 (*Amazing Spider-Man* #121), at 2

(1973). He takes Gwen to the Brooklyn Bridge,¹ where he and Spider-Man engage in an all-out aerial battle. *Id.* at 4–7. Just when Spider-Man is about to save Gwen, Green Goblin knocks her off the bridge. *Id.* at 8. Spider-Man tries to save her with his web-shooters, but Gwen dies. *Id.* at 9–11. In retribution, Spider-Man attacks Green Goblin. Ex. 19 (*Amazing Spider-Man* #122), at 2–5 (1973). Ultimately, Green Goblin is defeated when he accidentally kills himself by summoning his glider to attack Spider-Man, who jumps out of the way at the last moment. *Id.* at 6–8. Gwen’s death is so traumatic for Peter that for years he has recurring dreams and nightmares about the incident. See, e.g., Ex. 20 (*Webspinners Tales of Spider-Man* #12), at 2–6 (1999); Ex. 21 (*Amazing Spider-Man* #655), at 2–4 (2011).



Ex. 18 at 2.

*Id.* at 5.*Id.* at 8.*Id.* at 9.*Id.* at 11.

Ex. 19 at 7.

¹ Although Peter states in the comic book that the bridge is the George Washington Bridge, the artwork clearly depicts the Brooklyn Bridge, and subsequent re-printings have corrected the text to reflect the mistake.

13. The incident is frequently re-told with slight variations. In one iteration, Spider-Man does not use his web-shooters, but rather jumps after Gwen saving her life. Ex. 22 (*What If?* #24), at 2–4 (1980). In another, it is his later love interest, Mary Jane Watson, not Gwen Stacy, that Green Goblin kidnaps and throws off of the Brooklyn Bridge. Ex. 23 (*Ultimate Spider-Man* #25), at 2–5 (2002). Again, Spider-Man leaps after Mary Jane saving her life. *Id.* at 6–10.



Ex. 22 at 3.



Ex. 23 at 7.

*Id.* at 8.

14. Mary Jane Watson is introduced in the early *Spider-Man* comic books. In *Amazing Spider-Man* #15, Peter's Aunt May announces that she has arranged a blind date for Peter with their neighbor's niece. Ex. 24, at 2 (1964). Although Peter and Mary Jane keep missing each other at first because of Peter's responsibilities as Spider-Man, Ex. 25 (*Amazing Spider-Man* #25), at 2–3 (1965); Ex. 26 (*Amazing Spider-Man* #38), at 2–3 (1966), Mary Jane quickly becomes a significant character in the *Spider-Man* comic books, and readers learn of her desire to become an actress and her infatuation with Spider-Man. See Ex. 27 (*Amazing Spider-Man* #42), at 2; Ex. 28 (*Amazing Spider-Man* #43), at 2–3 (1966). After Gwen Stacy's death, Mary Jane eventually becomes Peter Parker's primary love interest, and their relationship continues to develop over the many issues of the *Spider-Man* title, until the pair finally marry in *Amazing Spider-Man Annual* #21. Ex. 29, at 2–3 (1987).



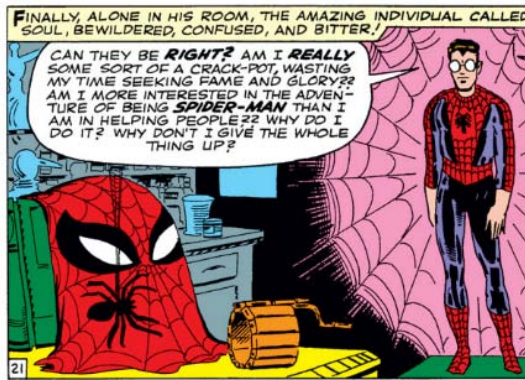
Ex. 27 at 2.



Ex. 29 at 1.

15. A core element of the *Spider-Man* story is the conflict between Peter's responsibilities as Spider-Man and his attempt to maintain his personal life. In *Amazing Spider-Man* #3, for example, after being beaten by Doctor Octopus, Peter's obsession over his failure causes him to become distant from Aunt May. Ex. 30, at 2 (1963). Similarly, in *Amazing Spider-Man* #4, Peter is concerned that Aunt May could be hurt if people learn that he is Spider-Man. Ex. 31, at 2–4 (1963); see also Ex. 32 (*Amazing Spider-Man* #5), at 2–3 (1963); Ex. 33 (*Amazing Spider-Man* #81), at 2–9 (1970). Peter also repeatedly considers giving up his role as Spider-Man. See, e.g., Ex. 31, at 5–6; Ex. 34 (*Spectacular Spider-Man* #229), at 2–5 (1995). In fact, at one time, Peter does quit, and he throws his costume in the trash, where it is discovered and delivered to a very pleased J. Jonah Jameson. Ex. 35 (*Amazing Spider-Man* #50), at 2–4 (1967). The scene is mirrored in the Second *Spider-Man* Film in a scene during which Peter—frustrated with the demands of being Spider-Man and missing Mary Jane's opening night—decides to quit in order to pursue his own life and his *Spider-Man* costume is again put in a trash can and delivered to a happy Jameson. Ex. 5, at 01:01; 01:08. In both works, the reprieve is short-lived, however. Later in the comic book issue, a crime spree orchestrated by a supervillain, forces Peter to resume his role as Spider-Man and get his costume back from Jameson. Ex. 35,

at 5–7. In *Spider-Man 2*, Peter similarly learns that the city needs him, and he must put aside his personal interest to become Spider-Man again. Ex. 5, at 01:25.



Ex. 31 at 6.



Ex. 35 at 3.



Ex. 5 at 01:03.

16. Arachne is a character from classic, Greek mythology. A translation of “The Transformation of Arachne into a Spider” from the Sixth Book of Ovid’s *Metamorphoses* is attached as **Exhibit 36**.

17. That story is also referenced in the *Spider-Man* comic books. On the first page of *Ultimate Spider-Man #1*, the myth of Arachne is retold by Norman Osborn (a.k.a. Green Goblin), who explains to his assistant:

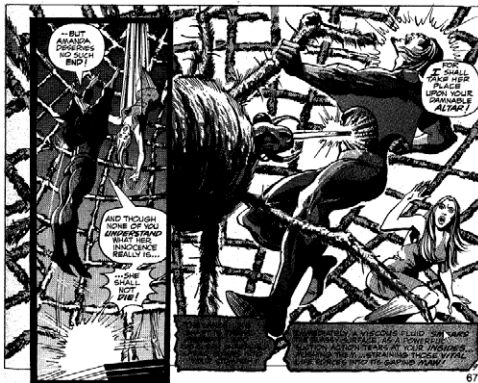
The story goes that Athena—you know Athena right? Seems she heard there was this woman on Earth—a mere mortal, like you and me—who happened to be a better spinstress than she was. . . . Athena wasn’t too happy to hear this and she came down to earth and destroyed the woman’s creations. . . . When this mortal girl saw what had happened—that she had insulted the gods and that her life’s work had been destroyed—she hanged herself. Athena took pity on this poor girl, and touched her on the forehead with a magic liquid and said: “You shall not die, Arachne, instead you shall be transformed and weave your web forever.” At Athena’s words, Arachne shrank and blackened. First her nose and ears fell off, and then her fingers turned into legs—what was left of her became her body, out of which she spins and was left to spin her web.

Ex. 37, at 2 (2000).



Id.

18. The Treatment says that Arachne is “the super ‘she’ villain and nemesis of Spiderman; Arachne a.k.a. Shathra, Shriek and Spiderwoman.” Ex. 1, at 1. In addition to the reference in *Ultimate Spider-Man #1*, discussed *supra* ¶ 17, in *Vampire Tales #3*, published in 1973, Arachne appears as a spider creature and battles with and then stabs Morbius with her stinger as he tries to save an innocent woman from being devoured by her. Ex. 38, at 2–4 (1973). Morbius, a superhero vampire, first appeared in *Amazing Spider-Man #101*. Ex. 39, at 1 (1971). Morbius is also one of the characters referenced in the Treatment. Ex. 1, at 2. Similarly, Spider-Woman, who is codenamed “Arachne,” first appears in 1977 in *Marvel Spotlight #32* as a super soldier spy sent to assassinate a military leader. Ex. 40, at 2–4 (1977). The Treatment also references Shriek, who escapes from a psychological facility and goes on a killing spree, until she is stopped by Spider-Man. Ex. 41 (*Spider-Man Unlimited #1*), at 2–3 (1993).



Ex. 38 at 4.



Ex. 40 at 2.



Ex. 41 at 2.

19. Finally, the Treatment refers to the Shathra character. Shathra appeared in only one storyline across three 2002 comic book issues in the *Amazing Spider-Man* series. In that story, Shathra is a “spider-wasp” creature—“a natural predator of the spider”—from the “astral plane,” who follows Spider-Man to our plane to hunt him as her “prey.” Ex. 42 (*Amazing Spider-Man* #487), at 2–5 (2002). In their encounter, Shathra attacks Spider-Man with her “stinger.” *Id.* at 7. Then, the pair battle throughout the city, ultimately having an epic battle in a massive spider-web. *Id.* at 7–12; Ex. 43 (*Amazing Spider-Man* #488), at 2–8 (2002); Ex. 44 (*Amazing Spider-Man* #489), at 2–5 (2002).



Ex. 42 at 6.

*Id.* at 11.

Ex. 43 at 4.



Id. at 8.



Ex. 44 at 4.

B. The Spider-Man Films

20. In 2002, Columbia Pictures released a feature film titled “*Spider-Man*,” which re-tells the classic *Spider-Man* origin story (the “First *Spider-Man* Film”) from the *Spider-Man* comic books. The film introduces Peter Parker as an awkward teenager who is in love with his next door neighbor, Mary Jane Watson, who is a collapsed version of the Gwen Stacy and Mary Jane Watson characters from the comic books. *See generally* Ex. 4. During a school trip to a laboratory, Peter is bitten by a genetically altered spider. *Id.* at 00:10. When Peter gets home, he is not feeling well and rushes straight to his room to lie down. *Id.* at 00:13. The next morning, Peter awakens to find himself altered—he has developed large muscles and he can see without his glasses. *Id.* at 00:17.



Id. at 00:04.



Id. at 00:04.

21. Later at school, Peter's new abilities become more apparent as Peter is able to prevent his classmate, Mary Jane, from falling as she slips in the cafeteria—as well as catching all of her falling food on her lunch tray. *Id.* at 00:22. Peter then accidentally swings the plate of food all over Flash Thompson, the school bully and Mary Jane's boyfriend. *Id.* at 00:23. Peter tries to run away, but Flash confronts him in the hallway. *Id.* at 00:23. Peter's quick reflexes, however, allow him to dodge Flash's punches. *Id.* at 00:23. When Peter finally punches back, his new strength knocks Flash across the floor. *Id.* at 00:24.



Id. at 00:22.



Id. at 00:23.



Id. at 00:24.

22. Peter tests his spider powers further as he climbs up the side of a brick building, discovers that he is able to produce webbing, and swings across a street, into the side of a building. *Id.* at 00:25.



Id. at 00:25.



Id. at 00:26.

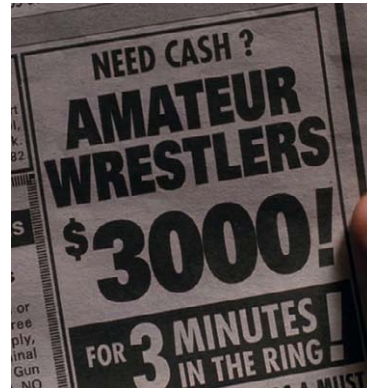


Id. at 00:27.

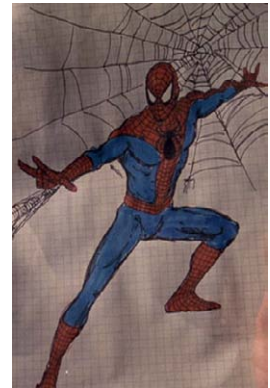
23. Back at home, Peter runs into Mary Jane outside his house, but they are interrupted by her boyfriend Flash, who shows up with his new convertible. *Id.* at 00:28. Determined to get a car of his own in order to win over Mary Jane, Peter searches through car advertisements in the local paper. *Id.* at 00:31. There he sees an advertisement to win money for lasting three minutes in a wrestling ring with “Bonesaw McGraw.” *Id.* at 00:32. Peter then starts designing wrestling costumes, ultimately deciding on a “spider” costume consisting of a sweatshirt with a spider decal drawn on it. *Id.* at 00:32.



Id. at 00:27.



Id. at 00:32.

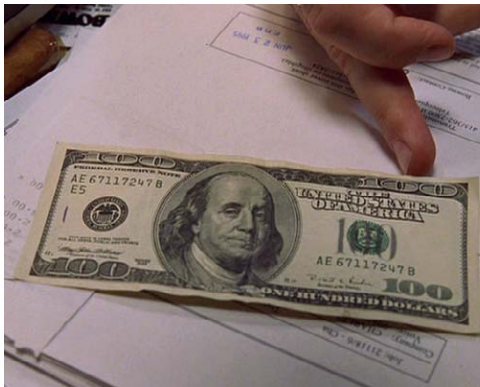


Id. at 00:33.

24. Peter tells Aunt May and Uncle Ben that he is going to the library, but instead he goes to the wrestling match. *Id.* at 00:34. The announcer declares that anyone who can last three minutes with Bonesaw McGraw will win \$3,000. *Id.* at 00:37. Peter enters the contest as the “Human Spider,” but the announcer introduces him as “the Amazing Spider-Man” and, using his superpowers, Peter is able to win the match, knocking Bonesaw McGraw unconscious. *Id.* at 00:38.

*Id.* at 00:39.*Id.* at 00:40.*Id.* at 00:41.

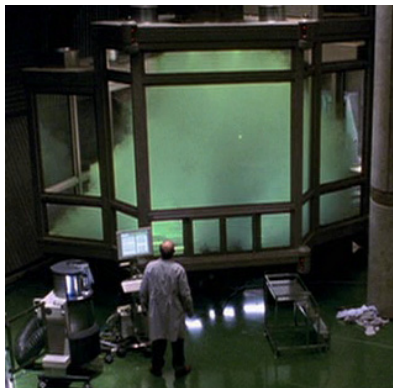
25. When Peter tries to collect his prize money, however, the promoter gives him only \$100. *Id.* at 00:41. After Peter leaves the promoter's office, a thief comes in and steals the promoter's money. *Id.* at 00:42. As the thief runs down the hall, Peter knows that he could stop him, but he steps aside instead. *Id.* at 00:42.

*Id.* at 00:41.*Id.* at 00:42.*Id.* at 00:42.

26. On Peter's way back to the library to meet Uncle Ben, he learns that Uncle Ben has been shot by a carjacker—as it turns out, it is the same thief that Peter let get away. *Id.* at 00:43. The loss of his beloved uncle makes Peter realize that he needs to use his powers to fight crime and protect others, because, as his uncle had told him on the day of his death, “with great power comes great responsibility.”

*Id.* at 00:43.*Id.* at 00:48.*Id.* at 00:48.

27. The film also includes the character of Norman Osborn, a scientist and businessman, who owns “Oscorp,” a scientific research and defense company. Norman, who has been working on a drug designed to create an army of super soldiers for the military, decides to test the drug on himself in an effort to save his company from financial ruin. *Id.* at 00:15. He swallows the formula and straps himself into a machine as his assistant types in the command codes and starts the process. *Id.* at 00:15. The glass chamber fills with green smoke and the transformation begins. *Id.* at 00:16. When Norman starts convulsing, his assistant tries to stop the test and revive Norman, but Norman suddenly awakens and throws his assistant through a glass wall, killing him. *Id.* at 00:17. The experiment creates Norman’s alter ego and Spider-Man’s nemesis, the “Green Goblin.”

*Id.* at 00:16.*Id.* at 00:16.*Id.* at 00:17.

28. Meanwhile, dressed as Spider-Man, Peter fights crimes and becomes a hero. J. Jonah Jameson, the editor-in-chief of the *Daily Bugle*, however, in an effort to sell more papers, prints that Spider-Man is a criminal and a menace and advertises an award to anyone who can produce pictures of Spider-Man for his paper. *Id.* at 00:55.



Id. at 00:55.



Id. at 00:55.



Id. at 00:57.

29. After learning of the award, Peter brings photographs of Spider-Man to Jameson. *Id.* at 01:01. Jameson takes the photographs and, despite Peter's protestations, decides use them with the headline "Spider-Man: Hero or Menace?" *Id.* at 01:01. When Peter asks Jameson for a job, Jameson insists that Peter should freelance instead—and orders him to get more photographs of Spider-Man. *Id.* at 01:02.



Id. at 01:00.



Id. at 01:01.



Id. at 01:01.

30. Meanwhile, at Oscorp, Norman announces to his Board of Directors that the company is doing very well and has surpassed its competition. *Id.* at 01:02. However, the board

tells him that they are selling the company, that they are announcing it after the World Unity Day Festival, and that after the announcement, Norman will be fired. *Id.* at 01:03.



Id. at 01:02.



Id. at 01:03.



Id. at 01:04.

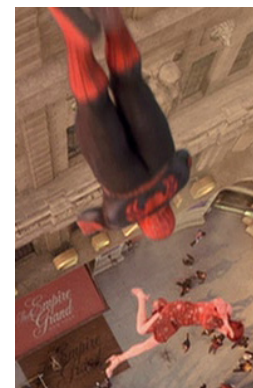
31. At the festival, Peter takes photographs of the events. *Id.* at 01:04. The festivities are interrupted, however, when Green Goblin appears and attacks Oscorp's board members, who are watching the festival from a terrace, along with Norman's son, Harry, as well as Mary Jane. *Id.* at 01:05. Peter quickly changes into his Spider-Man outfit and attacks Green Goblin. *Id.* at 01:07. As Spider-Man and Green Goblin fight, Mary Jane is stuck on a piece of the terrace that is falling away from the building. Spider-Man, however, leaps after her, catches her and swings her to safety. *Id.* at 01:09.



Id. at 01:07.



Id. at 01:08.



Id. at 01:09.

32. Later, Norman hallucinates that he is talking to his alter ego, Green Goblin, who reveals that only Spider-Man can stop him but that he would be even more powerful if Spider-Man joined him. *Id.* at 01:12.

33. The film then moves to the *Daily Bugle* where Peter confronts Jameson for printing that Spider-Man and Green Goblin are working together. *Id.* at 01:14. As Peter gets up to leave, however, Green Goblin bursts through the window and accosts Jameson, demanding to know who the photographer is that has been taking the pictures of Spider-Man. *Id.* at 01:15. When Spider-Man arrives to save Jameson, Green Goblin paralyses him with gas. *Id.* at 01:15.



Id. at 01:15.



Id. at 01:15.



Id. at 01:15.

34. When Spider-Man awakens, he is on the roof of a building with Green Goblin, who confronts Spider-Man and tries to convince Spider-Man to join him. *Id.* at 01:15. Green Goblin leaves him saying that no matter what he does, the people would eventually hate him. *Id.* at 01:16.



Id. at 01:16.



Id. at 01:16.



Id. at 01:17.

35. Later that evening, Peter gets together with Mary Jane, who is an aspiring actress, to ask her about a recent audition she had. *Id.* at 01:17. Mary Jane leaves as it starts to rain, but as she turns the corner, a group of thugs accost her. *Id.* at 01:19. Luckily, Spider-Man comes to her rescue. *Id.* at 01:20. While vanquishing the thugs, Spider-Man's mask comes off. *Id.* at 01:20. Before Mary Jane can see him, however, he runs off, and then returns, dangling upside-down from a web, with his mask on. *Id.* at 01:20. Mary Jane then rolls his mask down to uncover his mouth and kisses him. *Id.* at 01:21. After the kiss, Spider-Man disappears into the night. *Id.* at 01:21.



Id. at 01:19.



Id. at 01:20.



Id. at 01:21.

36. After a subsequent fight with Spider-Man, Green Goblin learns that Peter Parker is Spider-Man. *Id.* at 01:27. Armed with that knowledge, in an effort to attack Peter where it

hurts the most, Green Goblin attacks Aunt May at the Parker home. *Id.* at 01:30. Aunt May is taken to the hospital and Peter realizes that Green Goblin knows his secret. *Id.* at 01:31.



Id. at 01:24.



Id. at 01:31.



Id. at 01:31.

37. Realizing that Mary Jane may be Green Goblin's next target, he calls her on a pay phone, but he gets her answering machine. *Id.* at 01:38. As he leaves a message, Green Goblin answers the phone and asks maniacally, "Can Spider-Man come out to play?" *Id.* at 01:39.

38. When Peter learns that Green Goblin has trapped Mary Jane on the Queensboro Bridge, he comes to the rescue dressed as Spider-Man. *Id.* at 01:40. Green Goblin, however, is waiting for him and he presents Spider-Man with an impossible choice: either Spider-Man can save Mary Jane, who Green Goblin is holding off the bridge, or a cable car filled with children, the line of which he has cut apart. *Id.* at 01:41. Green Goblin drops both, and Spider-Man jumps off the bridge to rescue them, but as he hangs on to both Mary Jane and the cable car, Green Goblin attacks. *Id.* at 01:42. Mary Jane falls, but she lands on the cable car and all are saved. *Id.* at 01:44.

*Id.* at 01:39.*Id.* at 01:42.*Id.* at 01:44.

39. Green Goblin then carries Spider-Man to a rundown building. *Id.* at 01:45. The two fight and, just as Spider-Man appears to be defeated, Spider-Man is able to bring a brick wall down on top of Green Goblin. *Id.* at 01:47. Green Goblin survives and resumes the attack. *Id.* at 01:47. During the fight, however, Green Goblin reveals that he is Norman Osborn in an effort to distract Spider-Man while he summons his glider. *Id.* at 01:47. Then, as the glider, with its razor sharp tips, flies toward Spider-Man, Spider-Man jumps out of the way at the last minute and it rams into Norman/Green Goblin killing him. *Id.* at 01:49. Norman's final wish is for Peter not to tell his son that he was Green Goblin. *Id.* at 01:49.

*Id.* at 01:47.*Id.* at 01:49.*Id.* at 01:49.

40. At the end of the film, Mary Jane tells Peter that she loves him and they share a kiss. *Id.* at 01:53. But Peter realizes that he cannot tell her that he loves her if he wants to protect her and so he tells her that the two can only be friends. *Id.* at 01:53. Mary Jane starts to

cry as Peter walks away, but then suddenly she touches her lips as she realizes that Peter and Spider-Man are one and the same. *Id.* at 01:54.



Id. at 01:52.



Id. at 01:53.



Id. at 01:54.

41. Peter walks away, and his voiceover comes in: “Whatever life holds in store for me, I will never forget these words: ‘With great power comes great responsibility.’ This is my gift, my curse. Who am I? I’m Spider-Man.” *Id.* at 01:54.



Id. at 01:55.



Id. at 01:55.



Id. at 01:55.

42. In the Second *Spider-Man* Film, the romance between Peter and Mary Jane continues until, on a giant spider-web, Mary Jane reveals to Peter that she knows his secret identity and that she still wants them to be together. Ex. 5, at 01:53. Ultimately, Peter and Mary Jane can no longer deny their love and decide to be together despite Peter’s role as Spider-Man. *Id.* at 02:00. The film ends with Mary Jane telling Peter to be Spider-Man and “go get ‘em, Tiger!” *Id.* at 02:01.



Id. at 01:53.



Id. at 01:53.

III. THE SPIDER-MAN: TURN OFF THE DARK MUSICAL

43. The New Book, written in the spring of 2011, is 136 pages of stage directions and dialogue, which are divided into two acts that contain 17 scenes and 15 scenes respectively. *See generally* Ex. 2.

A. Act One

44. The New Book begins with Peter Parker “nervously working a set of index cards” in front of his Classics class while preparing to give a presentation titled “The Myth of Arachne: A Tale of Transformation and Redemption . . . and spiders.” *Id.* at 1–2. The scene then shifts to show the Greek character, Arachne, and her weavers, as Peter gives his report to the class, which summarizes the classic, Greek “Arachne” myth:

[Arachne boasted that she alone possessed the talent of the loom.] Arachne’s boastful words reached the Goddess Athena . . . Who demanded a weaving contest to prove her talent was grater than Arachne’s . . . Arachne accepted the challenge . . . But in her arrogance, she wove blasphemous images into her tapestry to mock the Gods . . . To punish Arachne, Athena destroyed her loom [and Arachne attempted to hang herself] . . . But before Arachne died . . . The goddess transformed her [into a spider].

Id. at 2–5. Arachne’s transformation brings her wisdom and humility. *Id.* at 6.

45. When Peter finishes his report and class is ending, Peter inadvertently reminds the teacher about a homework assignment, to his classmates’ chagrin. *Id.* at 6–7. Peter then speaks

briefly with his neighbor, classmate, and crush, Mary Jane Watson. *Id.* at 8. This infuriates Flash Thompson, who informs Peter that he is dating Mary Jane and then, along with the other school bullies, fights Peter. *Id.* at 9–13.

46. After getting beaten up, Peter is left humiliated and walks home “in the blackest of moods.” *Id.* at 13–14. Mary Jane, however, catches up to him to see if he is okay, at which point Peter learns that although Mary Jane and Flash have been on one date, she thinks he is a jerk. *Id.* at 14–15. They finally arrive at their adjoining homes to find Mary Jane’s father screaming inside her house. *Id.* at 17. Peter goes into his house, but Mary Jane lingers outside not wanting to go in. *Id.* Inside Peter’s house, Uncle Ben and Aunt May ask Peter about his broken glasses and realize that he was in another fight at school. Uncle Ben advises Peter to “rise above” it—to be a better man than the bullies—and out think them. *Id.* at 18–20.

47. The New Book then transitions to Oscorp Laboratory, which is run by Norman Osborn and his wife, Emily. *Id.* at 22. There, Norman Osborn is pacing around his lab, full of energy and fiddling with his equipment while Emily tries desperately to get his attention to discuss Oscorp’s funding problems. *Id.* Norman will not be distracted, however, and he continues to talk about his new ideas for how to transform humans so that they can survive a global catastrophe. *Id.* at 22–23. Norman’s train of thought is finally interrupted by the arrival of Peter’s class on a field trip. *Id.* at 23–24. Emily takes the opportunity to engage Norman on the funding problem and her concern that the staff will leave, but she is only more concerned when Norman tells her that he is considering an offer from Viper Worldwide to fund his research—a company that Emily considers to be a corrupt, shadow organization only interested in creating killing machines. *Id.* at 24, 33A. When Peter, Mary Jane and their class arrive in the laboratory, Norman tries to engage Peter in conversation, but Peter is dumbstruck at meeting

Norman so Mary Jane answers for him. *Id.* Then, Emily joins the conversation—confusing Mary Jane for Peter’s girlfriend—and Norman advises Peter that although the “work is everything,” it is love that keeps you sane and human, so you have to have both. *Id.* at 27. Next, Peter takes a picture of Norman, and Norman explains to the class that they must DIY (Do It Yourself): “Improve yourself . . . so you can improve the world.” While he is explaining, however, an “enhanced” female spider goes missing, lands on Peter’s hand and bites him, filling him with venom. *Id.* at 30–32.

48. Back at the Parker home, Aunt May, Uncle Ben and Mary Jane discuss Peter’s condition as he came home from the school trip feverish and went straight to bed. *Id.* at 33A–34. They agree to let Peter sweat out the “flu” over night, hoping he will be better after a good night’s rest. *Id.* In the morning, however, Peter awakes bewildered and clinging to the ceiling of his bedroom. His vision has improved and so have his muscles and he is able to bounce from wall to wall in his room. *Id.* at 35–37.

49. At school, Peter fights the bullies that had picked on him before, and this time actually wins. *Id.* at 38–39. Peter realizes that he now has “the proportionate strength, speed and agility of a super-spider,” and he produces “a web-like fluid.” *Id.* at 39. However, his analysis is interrupted when Flash drives past Peter with Mary Jane in his car. *Id.* Peter thinks that to get a girlfriend, he needs a car or a motorcycle. *Id.* at 39–40. Peter returns home and discusses it with Uncle Ben, who realizes that Peter is in love with Mary Jane, and agrees to begin saving up for a car but reminds Peter, “There are no shortcuts, in life as in love.” *Id.* After seeing an advertisement in a newspaper offering a cash prize of \$1,000 to anyone lasting three minutes in the ring with wrestler Bonesaw McGraw, however, Peter declares, “Proportionate speed and strength of a spider . . . I can do this! I just need a name and a costume.” *Id.* at 40–41. Peter

dismisses Uncle Ben's advice and runs out to get some new clothes and a mask for the fight. *Id.* at 40.

50. In the next scene, Peter is at the wrestling match and is set to fight Bonesaw McGraw in a "pathetically home-made Spider-type suit" and a "decorated ski mask over his head." *Id.* at 42. Thanks to his spider powers, Peter quickly defeats Bonesaw McGraw and wins the prize money.

51. When Peter returns home, however, he learns that Uncle Ben has been killed by a carjacker. *Id.* at 44–45. Peter blames himself for Uncle Ben's death, because he thinks that he could have stopped it from happening if he had not been at the wrestling match. *Id.* at 45. Peter, overtaken by the world's corruption, wants to rise above the fray, but he does not think that he can. *Id.* at 46–47. Peter is then visited by Arachne, a kind of guardian angel for him, who interrupts his protestations to urge him to "honor [his] gift" and "embrace [his] powers." *Id.* at 47. At last Peter realizes that he must use his powers to serve the world, if he is to rise above:

Uncle Ben I make this vow—to use these gifts to serve the world . . . For with great power . . . comes great responsibility.

Id. at 48–49 (alterations in original, stage directions omitted).

52. Finally, Peter Parker embraces his newfound powers and becomes Spider-Man, using his powers to fight crime and capture gangsters, muggers and purse snatchers that have plagued New York City. *Id.* at 50–51. He also heroically rescues a falling baby from a burning building. *Id.* at 51.

53. Spider-Man catches the attention of the entire city, including Mary Jane, J. Jonah Jameson, the owner of the *Daily Bugle*, and Jameson's reporters. *Id.* at 52. Despite the evidence to the contrary, Jameson refuses to believe that Spider-Man could be a hero or helping people, and he decides that the *Daily Bugle* will sell more papers if they report that Spider-Man is a

criminal. *Id.* at 52–54. Luckily for Jameson, Peter arrives at the *Daily Bugle* with photographs of Spider-Man, which Jameson agrees to purchase after some haggling, and then Jameson hires Peter as a volunteer photographer. *Id.* at 54–56.

54. Back at Oscorp, Norman is harried and haggard as he obsesses over the realization that Spider-Man is one of his creations. *Id.* at 57. Emily considers whether Oscorp’s research could have been leaked by one of their former employees, who quit and took their files with them, but Norman refuses to believe it. *Id.* Then, the Viper executives appear to torment Norman with the idea that his research has gotten out of the lab and is being sold by his former scientists. *Id.* at 57–60. They present Norman with a choice: either they will subsidize Oscorp’s research so that they can make fighting soldiers, which is exactly what Emily feared, or they will go to his “competition.” *Id.* at 60–63. In the end, Norman refuses to accept Viper’s funding, but he realizes that to stay afloat, Oscorp needs to quickly produce its own human application of his work. *Id.* at 63.

55. The scene then shifts to Peter, Mary Jane and Aunt May walking home from Peter and Mary Jane’s graduation and talking about Uncle Ben and the teenagers’ futures. *Id.* at 64. Aunt May purposefully leaves Peter and Mary Jane alone to have dinner with a friend. *Id.* at 64–65. Mary Jane is very proud of all Peter has accomplished as a student, but her thoughts quickly turn to Spider-Man and Peter’s relationship as photographer to the masked hero. *Id.* at 65. Simultaneously, the scene shows Emily and Norman discussing Norman’s intention to test his research on himself. *Id.* at 67–68. The two couples try to picture their futures. *Id.* at 68–69. As Peter and Mary Jane share their first kiss, Emily straps Norman into his machine and enters the command codes. *Id.* at 70–71. But something is wrong with Norman’s machine. *Id.* at 71. Nevertheless, Norman urges Emily to continue if she loves him, and Emily throws the switch,

leading to an enormous explosion. *Id.* at 71–72. Peter and Mary Jane hear the explosion, and when Peter realizes that it was from Oscorp, he heads off to investigate. *Id.* at 72–73. At the same time, Norman emerges from the machine as the Green Goblin, “glowing the fluorescent green of a glowworm, with wings like those of a beetle crossed with a bat, and a hideous face to match,” only to realize that Emily is dead. *Id.* at 73. Spider-Man arrives too late and observes the destruction. *Id.*

B. Act Two

56. Act Two opens in Oscorp, where Green Goblin has captured the six scientists that had quit working for him. *Id.* at 74. Emily’s death has left Norman/Green Goblin plagued with hallucinations of demon versions of his wife and the students from the high school. *Id.* at 75–76. Green Goblin then pushes ahead with his plan to turn the six disloyal scientists into superhuman mutants, creating the “Sinister Six” consisting of: Swarm, “a man made entirely of mutant bees”; Lizard, a lizard monster; Electro, “a Human Lightning bolt”; Kraven the Hunter, “a REAL animal” who frees the animals from the Bronx zoo; Carnage, “our blood guy”; and Swiss Miss, a “giant female [S]wiss [A]rmy knife”—and he sets them loose on the city. *Id.* at 77–78, 85.

57. At the same time, Peter and Mary Jane share a romantic evening on a fire escape of Mary Jane’s New York apartment eating Chinese food. *Id.* at 81. Peter tries to leave to patrol the city as Spider-Man, but Mary Jane convinces him to stay with her, little knowing the Sinister Six are loose in the city. *Id.* at 82–83.

58. While Spider-Man takes the night off, the *Daily Bugle*’s reporters are covering the Sinister Six’s attack on the city and video images are shown of the attack. *Id.* at 85. Yet, Spider-Man does not swing to the rescue. *Id.* at 85.

59. After the attack, Peter returns to the *Daily Bugle* and explains to Jameson that he took the night off. Jameson is furious and he sends Peter out to get pictures of the Sinister Six’s

attack. *Id.* at 87–89. After Peter leaves, however, Green Goblin appears and confronts Jameson. *Id.* at 89–90. Green Goblin explains that he created the Sinister Six and that Spider-Man was his “firstborn.” *Id.* at 90. Jameson happily exclaims, “Spider-Man—Son of a Psychopath,” as Green Goblin escapes in an explosion. *Id.* at 90–91.

60. The scene then cuts to Peter and Aunt May, as Aunt May expresses her displeasure that Peter did not call to say he was going to be late and her worry about him being on the streets with the Sinister Six and Spider-Man around. *Id.* at 92A–93. Peter asks what she is talking about and she explains that the *Daily Bugle* is making Spider-Man out to be a villain. *Id.* at 93. Peter begs Aunt May to stop reading the paper, and he gives his aunt her medicine as he exits again. *Id.* at 93–93A.

61. Spider-Man then takes to the streets and vanquishes Kraven the Hunter, Carnage, and the Lizard as New York citizens sing his praises. *Id.* at 94. But back at the *Daily Bugle*, Jameson continues to assert that Spider-Man could not possibly be capturing the villains because Green Goblin and Spider-Man are working together, and he tells Peter that he wants a photograph of both Green Goblin and Spider-Man. *Id.* at 94–95.

62. Next, Spider-Man vanquishes Electro and Swiss Miss by letting them electrocute each other. *Id.* at 95–96. Afterward, Peter discovers Mary Jane and Flash together. Mary Jane explains that she was having lunch alone, again, and Flash walked by. *Id.* at 96. Peter tries to explain that he was late because he has been busy at the *Daily Bugle*, and Mary Jane urges him to quit since the *Daily Bugle* only uses Peter’s pictures to “badmouth” Spider-Man, to Peter’s chagrin. *Id.* at 96–97. She then asks Peter if he will be at her play’s opening that night, but before he can answer, Swarm attacks and Peter must leave again so that he can return as Spider-Man and defeat Swarm, the last member of the Sinister Six. *Id.* at 97.

63. Frustrated at Spider-Man's success, Green Goblin, in a comedic scene, attempts to call the *Daily Bugle* to deliver a threat to Spider-Man, but finds himself lost in a voicemail system. *Id.* at 99–100. In the end, the paper publishes Green Goblin's threat. *Id.* at 101. Peter, on the streets, sees the threat in the paper, and he immediately calls Mary Jane, who does not answer. *Id.* at 101.

64. Next, the New Book describes Mary Jane dangling from the Brooklyn Bridge. When Spider-Man tries to rescue her, Green Goblin slices the cable Mary Jane is tethered to and Mary Jane falls. *Id.* at 103. Peter tries to shoot his webbing to save her, but when he is unable to, he leaps after her. *Id.* As Spider-Man falls to the ground in slow-motion, the audience learns that Peter is actually in his bed at home having a nightmare. *Id.* He wakes up frantically crying out that he is alone with no one to help him. Dozing off again, Arachne appears in Peter's dream to remind him that she is always with him and that it is his destiny to bear the burden of being Spider-Man. *Id.* at 104–104A.

65. Suddenly the phone rings and Peter wakes up to a message from Mary Jane on his answering machine asking where he is. Peter realizes that he is late for Mary Jane's opening in the off-Broadway production of *The Fly*, and when he calls her to explain, she hangs up on him. *Id.* at 105–107. When he finally arrives, Peter has missed the performance. When he sees Mary Jane, she tells him she needs a break from their relationship because something is holding them back. *Id.* at 107–111.

66. Frustrated with his inability to be with Mary Jane and also be Spider-Man, Peter travels to the *Daily Bugle* and hands Jameson Spider-Man's costume. *Id.* at 111–113. He tells Jameson that both Spider-Man and Peter are quitting. *Id.* at 113. Jameson revels in his victory over Spider-Man. *Id.*

67. In the next scene, Peter and Mary Jane are dancing at a night club, and Peter tells Mary Jane that he loves her and that he wants to marry her. *Id.* at 115. As the pair kiss, the lights go out and Green Goblin appears on the club's monitors. *Id.* at 116. Green Goblin explains that until Spider-Man returns, he is going to destroy the city. *Id.*

68. Peter now recognizes that Green Goblin is Norman Osborn. He also realizes that without Spider-Man, there is no one to save the city. *Id.* at 118. Back at Peter's apartment, Peter tells Mary Jane that he cannot be with her and that she cannot be there when he gets back. *Id.* at 118–19. Peter then breaks into the *Daily Bugle* to reclaim his *Spider-Man* costume.

69. The New Book then describes the Green Goblin on top of the Chrysler Building playing the piano, waiting for Spider-Man to arrive. *Id.* at 123. Finally, Spider-Man appears and confronts Green Goblin. *Id.* at 124–25. However, Green Goblin does not want to fight—he wants Spider-Man to join him—but Spider-Man refuses. *Id.* at 126. A battle ensues between the two, during which Spider-Man attempts to appeal to Green Goblin's memory of Emily and his admonition that “without love, the work means nothing—love is what keeps you sane, keeps you human.” *Id.* at 127. Green Goblin then reveals that Mary Jane is dangling from the Chrysler Building a thousand feet above the ground and the rope holding her is about to snap. *Id.* at 128. Spider-Man leaps off the building to save Mary Jane, and Green Goblin follows after him. *Id.* An aerial fight ensues as Green Goblin taunts Spider-Man with the choice of saving Mary Jane or defeating him. *Id.* at 130A. Finally, Green Goblin pushes the piano off of the building, only to find out that Spider-Man webbed him to the piano such that Green Goblin falls to his death. *Id.* 130A–131.

70. As Spider-Man swings Mary Jane to safety, they are finally standing face to face. *Id.* at 132. Mary Jane tells Spider-Man that she thinks she knows who he is, and Spider-Man

takes off his mask revealing Peter underneath. *Id.* The two kiss and Mary Jane assures Peter that wherever being Spider-Man takes him, she will be there, because he needs her now more than ever. *Id.* at 133. Then, a siren rings and she tells him to, “Go get’em, Tiger!” *Id.* On stage, the show ends during a curtain call with Spider-Man descending from the rafters on web upside-down to give Mary Jane an upside-down kiss, as they did in the First *Spider-Man* Film.

IV. THE “SPIDERMAN/CAUGHT” TREATMENT

71. The Treatment is two-and-a-half pages long and consists of a plot idea and basic story based on the *Spider-Man* story and characters, without dialogue, divided into two acts. *See generally* Ex. 1. All of the characters referenced in the Treatment originally appeared in the *Spider-Man* comic books. *See* Ex. 3, at 1, 3 (first appearance of Peter Parker/Spiderman, Uncle Ben and Aunt May); Ex. 25, at 2 (first appearance of Mary Jane Watson); Ex. 38, at 2 (first appearance of Arachne); Ex. 11, at 1 (first appearance of Green Goblin); Ex. 16, at 2 (first appearance of Norman Osborn); Ex. 9, at 1 (first appearance of the Sinister Six); Ex. 42, at 3 (first appearance of Shathra); Ex. 41, at 2 (first appearance of Shriek); Ex. 40, at 1 (first appearance of Spider-Woman); Ex. 30, at 1 (first appearance of Doctor Octopus); Ex. 7, at 1 (first appearance of Vulture); Ex. 8, at 1 (first appearance of Electro); Ex. 45 (*Amazing Spider-Man* #41), at 1 (1966) (first appearance of Rhino); Ex. 39, at 1 (first appearance of Morbius); Ex. 46 (*Amazing Spider-Man* #299), at 2 (1988) (first appearance of Venom).²

72. The Treatment begins with an unidentified person’s dream in which “Spiderman fl[ies] from one burning sky scraper to another” and “Mary Jane [is] pushed from the heights of a giant bridge—Spiderman tries to unleash his web shooter—it fails as he leaps after MJ—but he has lost his powers and begins to fall.” *Id.* at 1.

² Doctor Octopus, Vulture, Rhino, Morbius and Venom do not appear in the New Book.

73. Next, the Treatment states, “The myth of Arachne is the beginning—how she was transformed into spider and doomed to the shadows in eternity to weave webs that no one would see. Or so we should think.” *Id.*

74. The Treatment describes the basic story of Act One as covering “the terrain of the first film”:

Act One covers the origins Peter’s spider power . . . : Peter’s bullied school days, how he was bitten, his transformation, wrestling scene, love for Mary Jane, loss of uncle Ben, transformation of Norman Osborne to the Green Goblin, newspaper woes etc. . . .

Act One ends with the defeat of Green Goblin. He will later return in Act Two as one of the Sinister Six/Seven.

Id. (emphasis added). In Act One, Peter is also “distrusted and maligned by the press” and “decides to give up being Spiderman” until “he is forced by the onslaught of the Sinister Six/Seven attacks to utilize his Spiderman powers to save his aunt.” *Id.* Then, “[f]inally Mary Jane realizes who he is and is ready to accept him as both Spiderman and Peter.” *Id.*

75. Act Two is predominantly about Arachne and her infatuation with Peter. *See id.* at 1–3. As the Treatment explains, Arachne “hovers in the shadows [sic] the ultimate darkness that is a terror invading the minds of the populace. *Id.* at 1. She “is the super ‘she’ villain and nemesis of Spiderman; Arachne a.k.a. Shathra, Shriek and Spiderwoman,”³ whose “ultimate goal is to come out from the shadows to shine once more.” *Id.* “She is deeply bitter, alone and fated to immortality.” *Id.* at 2. Moreover, “Arachne lost that human side when she was doomed to the shadows ages ago.” *Id.*

76. In Act Two, Spiderman “has achieved tremendous fame, the people finally love him, he is the ultimate super hero, his name is everywhere every television, billboard,

³ As described above, Shathra, Shriek and Spider-Woman are all characters from Marvel’s comic books. *See supra* ¶¶ 18–19.

newspaper—all the media acclaim him: films, comic book, songs streets, cities are named for him.” *Id.*

77. At the beginning of Act Two, Peter defeats each of the villains individually, and then they either die or disappear into the shadows “by their own mistakes and failures.” *Id.*

78. Then Peter is “drawn to the astral plane in his sleeping time, to the dark shadows of the mysterious ‘A.’ The ‘FIRST’. ‘The DIVINE’.” *Id.* The Treatment describes this dream as identical to that at the beginning of the story, except that both Peter and MJ have “been ‘saved’ by Arachne’s wwweb. It is ambiguous whether they have been saved or caught.” *Id.*

79. In the dream, “Arachne reveals that she has been the true terror that has over taken the physical world” by using her “World’s Wide Web” to create “monsters, natural disasters of the mind and [control] the very thoughts and actions of human beings with her tremendous art of spinning.” *Id.* The Treatment also states that Arachne spun “the myth of Spiderman himself,” as well as “created, spun these arch super villains out of the threads of her imagination; GREEN GOBLIN, DR. OCK, VULTURE, ELECTRO, RHINO, MORBIUS, VENOM ETC...” each of whom is “also caught in her web like pathetic flies.” *Id.*

80. At this point, Arachne reveals that she had brought the villains “together as the SINISTER SIX/SEVEN for a final assault of terror.” *Id.* Each villain was “a test of Spiderman’s invincibility.” *Id.* Yet, the Treatment explains, “[i]n all of his battles with these villains Peter had never killed one of them. That is part of his human strength within the human lexicon of morality.” *Id.* Rather, “each villain either died or disappeared into the shadows by their own mistakes and failures.” *Id.* Peter’s avoidance of “vanity, greed and hubris” “impre[s]s and provoke[s]” Arachne. *Id.*

81. Arachne “has now lured Peter into her web to dance a dance of seduction.” *Id.* The Treatment indicates that she wants to “possess” and “devour” him so that she can take his “humanity” and be “released from the darkness.” *Id.* Essentially, “[l]ike the spider that she is, [Arachne] will mate with Peter and then, we will find out, devour him.” *Id.* “Their children will rule the universe in all its planes of existence.” *Id.*

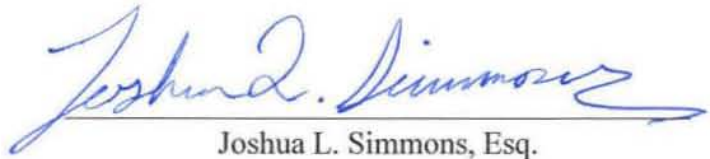
82. The end of the Treatment states that “Arachne wants deeply to have human humors coursing through her veins once more” and that she “will even risk or welcome destruction in her final showdown/union with Spiderman.” *Id.* at 2. It goes on:

Just as it looks like Peter is about to kiss Arachne in a full, sexual human embrace, he flips upside down, suspended by a thread, and kisses Mary Jane in the familiar spider style. As Arachne, furious, attacks him with her hidden spider/wasp stinger he bites MJ on the neck. She flips upside down to hang by her spider thread beside the stricken Peter. He, stunned and drugged by the venom, falls into the recesses of the web. Mary Jane, with her emerging new spider powers climbs up to the rafters and leaps in an attack on Arachne.

Id. at 3. The Treatment ends stating, “The story unravels. Are we left dangling by a thread?” *Id.*

I declare under penalty of perjury under penalty of perjury that the foregoing is true and correct.

Executed on March 21, 2012
New York, New York


Joshua L. Simmons, Esq.